

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANITEC INDUSTRIES, INC.,)
Plaintiff,)
v.)
SANITEC WORLDWIDE, LTD.,)
Defendant.)
C.A. No. 04-1386 JJF

ANSWER

Defendant Sanitec Worldwide, Ltd. (“SWL”) hereby answers the Complaint filed in the above-captioned action as follows:

1. Numbered paragraph 1 of the Complaint states a conclusion of law as to which no response is required.
 2. Numbered paragraph 2 of the Complaint states a conclusion of law as to which no response is required.
 3. SWL is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in numbered paragraph 3 of the Complaint.
 4. Admitted.
 5. Denied that Jeffrey J. Weinstein is a defendant in this action, otherwise admitted.
 6. Denied that James H. Smith is a defendant in this action, otherwise admitted.
 7. SWL admits the allegations contained in the first sentence in numbered paragraph 7 of the Complaint. SWL denies the allegations contained in the second sentence of numbered paragraph 7 of the Complaint. SWL is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the third sentence of numbered paragraph 7 of the Complaint.

8. Numbered paragraph 8 of the Complaint contains a conclusion of law as to which no response is required.

9. Admitted.

10. SWL is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in numbered paragraph 10 of the Complaint.

11. SWL denies the allegations contained in the first sentence in numbered paragraph 11 of the Complaint. SWL admits the allegations contained in the second sentence of numbered paragraph 11 of the Complaint. SWL is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the third sentence of numbered paragraph 11 of the Complaint.

12. SWL denies the allegations contained in the first sentence of numbered paragraph 12 of the Complaint. SWL is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the second and third sentences of numbered paragraph 12 of the Complaint.

13. SWL is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in numbered paragraph 13 of the Complaint.

14. SWL admits the allegations contained in the first sentence in numbered paragraph 14 of the Complaint, but adds that the website has been turned off (at least temporarily) apparently as a result of actions by plaintiff. SWL denies the allegations contained in the second sentence of numbered paragraph 14 of the Complaint. SWL admits the allegations contained in third and fourth sentences of numbered paragraph 14 of the Complaint.

15. Denied.

16. Denied.

17. Denied.

18. Denied as stated.

19. Denied, accept admitted that at some time Weinstein engaged in discussions with JustinKaufman.

20. Admitted.

21. Admitted.

22. SWL denies as stated the allegations contained in the first sentence of numbered paragraph 22 of the Complaint.. SWL admits the allegations contained in the second sentence of numbered paragraph 22 of the Complaint. SWL denies the allegations contained in the third sentence of numbered paragraph 22 of the Complaint.

23. Denied.

24. Denied.

25. SWL reasserts and realleges herein its responses to numbered paragraphs 1-24 of the Complaint as set forth above.

26. Denied.

27. Denied.

28. Denied.

29. SWL reasserts and realleges herein its responses to numbered paragraphs 1-26 of the Complaint as set forth above.

30. Denied.

31. Denied

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. SWL reasserts and realleges herein its responses to numbered paragraphs 1-33 of the Complaint as set forth above.

37. Denied.

38. Denied.

39. SWL reasserts and realleges herein its responses to numbered paragraphs 1-36 of the Complaint as set forth above.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. SWL reasserts and realleges herein its responses to numbered paragraphs 1-41 of the Complaint as set forth above.

45. Denied.

46. Denied.

47. SWL reasserts and realleges herein its responses to numbered paragraphs 1-44 of the Complaint as set forth above.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff does not lawfully own the patents and trademarks in question.

SECOND AFFIRMATIVE DEFENSE

Plaintiff has unclean hands.

THIRD AFFIRMATIVE DEFENSE

Application of the Delaware Deceptive Trade Practices Act in these circumstances violates the Interstate Commerce Clause.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, pursuant to 35 U.S.C. §287.

RESERVATION OF RIGHTS

SWL reserves the right to amend this answer to assert any counterclaim it determines to be appropriate, and to assert such additional affirmative defenses as circumstances may warrant and/or as may become evident through discovery.

WHEREFORE, defendant Sanitec Worldwide, Ltd. respectfully requests that the Court enter judgment in its favor and against the plaintiff on all of its claims, and award defendant its costs, including reasonable attorney's fees, along with such other and further relief as the Court may deem just and proper.

Dated: July 25, 2005

/s/ David L. Finger

David L. Finger (DE Bar ID #2556)

Finger & Slanina, LLC

One Commerce Center

1201 Orange Street, Suite 725

Wilmington, DE 19801-1155

(302) 884-6766

Attorney for defendant Sanitec Worldwide, Ltd.

CERTIFICATE OF SERVICE

I, David L. Finger, hereby certify that on this 25th day of July, 2005, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send notification of such filing to the following:

Richard D. Kirk, Esq.
The Bayard Firm
222 Delaware Avenue, Suite 900
Wilmington, DE 19801

A copy of the foregoing document is also being served via e-mail on the following:

Richard J. Oparil, Esq.
Patton Boggs LLP
2550 M Street, NW
Washington, DE 20037

/s/ David L. Finger
David L. Finger (DE Bar ID #2556)
Finger & Slanina, LLC
One Commerce Center
1201 Orange Street, Suite 725
Wilmington, DE 19801-1155
(302) 884-6766